

DOCKET FILE COPY ORIGINAL

ישיבה בית מקרא  
*Yeshiva Bais Mikroh*

P.O. Box 456, 221 Viola Road, Monsey, NY 10952 • 845-425-4880 • Fax 845-425-1062

Federal Communications Commission  
Office of the Secretary  
445 12 Street SW  
Washington, DC 29554

July 29, 2004

RE: Cong. Beth Mikroh  
BEN 151831 / FRN 972542 - Corr.date 6/18/04  
Request for Review CC Docket # 02-6

Dear Sir/Madam,

The SLD has denied our school funding for basic phone service from Verizon for the funding year 2003-2004. Furthermore, our Appeal was also denied.

The SLD stated, that based on our response it was clear that price was not the primary factor in our vendor selection process and, therefore, they determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism. We did, in fact, state at the end of a paragraph detailing all the issues involved in our process, that in our selection of Verizon we considered price as 40% and other factors - such as reliability - as 60%. Copies of our correspondence are enclosed for your examination.

May we please point out, that our decision to choose Verizon is not a statement of criteria as to how we choose vendors. In this particular instance factors other than price outweighed the price factor. Please let us explain: In selecting Verizon for our basic phone service we weighed many factors (as explained in our original statement to the selective reviewer). We determined that although using an alternate provider might afford a minimal saving, we have the responsibility as an educational institution to consider **all** factors, not just price. Safety factors involved are a major concern. We were not aware of any school in our community that used alternate providers for basic service, but we ourselves were hurt when a number of years ago our long distance provider - Viatel - suddenly went out of business, leaving us without long distance service. SLD did not process our Good Samaritan Appeal, and we lost a considerable amount of funding. The entrance of alternate providers into the basic phone market is relatively new and could have its risks. Verizon has a 24/7 service line for repair. As a test, we called an alternate provider and asked what we would do in case of an outage. We were very surprised to hear that when their business office is closed there are very few options. You can surely appreciate our concern. Verizon's customer service has always been highly trained, experienced, and helpful in resolving our concerns and special needs. Technical support is hands-on at Verizon; with one call we were able to take a line off of hunting to provide special services to a bedridden student. In situations of weather emergencies and downed lines, which we have experienced, and may it never happen, an Indian Point nuclear reactor emergency, we would have to be pretty sure that an alternate provider would not jeopardize the safety of our students. We consider reliability as a measure with which we can assure continuity of phone service for a building servicing 450 students and a large staff. ***Using Verizon heavily outweighed any alternate reseller.***

No. of Copies rec'd 0  
List ABOVE

SLD's decision has given us the impression that none of the above concerns matter, and that we will lose our basic funding for not accepting the bid of the "new kid on the block". I spoke with a SLD supervisor, Debbie Wilburn, and even after I read SLD's denial of appeal, she informed me that it was highly irregular to deny funding for a school's basic phone service.

Ultimately, FCC's rules concerning the selection process are meant to assure the integrity of the vendor selection process, and to assure that there is no waist or fraud in the federally-funded program. We trust that the FCC does not view using Verizon's basic service as a choice which threatens FCC's concern for the integrity of the program, nor should the factors outlined above other than price (and which we also alluded to in our original review ) be considered waist.

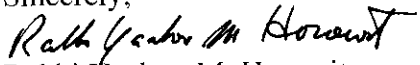
We must also note that at the beginning of the funding year in question, we signed up with a new one-rate plan from Verizon, which minimized our long distance expenses and cut the average monthly expense for basic phone service. This surely provided great savings which at the time were not available by other carriers.

In summary, we would like to restate that price is the first and primary concern in our vendor selection process. However, in our decision to continue with Verizon as our basic phone service provider for the funding year 2003-2004, we found that although in theory we might have had a saving by using an alternate provider, all the factors relating to reliability of service (and please note that the word "reliability" was as a summary of the other factors detailed in my narrative to the reviewer) by using Verizon heavily outweighed any other provider. One could compare this to a salesman being offered a car by two dealerships - one is known for its discount pricing, and the other is known for its reliable repair service, loaner cars, and a long standing reputation for fair pricing and customer service. Clearly, one should spend a little extra and not risk getting stuck without assistance and without a car for an undetermined period of time. One must also consider the financial losses resulting from the salesman's choice of dealerships. We feel that the security of knowing that our school will have the service it needs, when it needs it, and that down time will be minimized, is the greatest test of cost effectiveness. We believe that many schools, just as ours, chose to use Verizon for the very same reasons that we did. Would it then be that every school choosing Verizon for these reasons would be denied funding because they turned down the modest savings of another provider.

We are a private school funded by tuition and fueled by a staff of dedicated professionals. The children of educators in our community make up a very high percentage of our student body. We run a streamlined tight ship. The denial of funding for our basic phone service is a major concern to us. Please review our appeal and give us your kind consideration.

E-Mail: ewybm@optonline.net  
Cell: 914.806.5411 Phone: 845.425.4880 - Ext. 103

Sincerely,

  
Rabbi Yaakov M. Horowitz  
Administrator

ישיבה בית מקרא  
*Yeshiva Bais Mikroh*

P.O. Box 456, 221 Viola Road, Monsey, NY 10952 • 845-425-4880 • Fax 845-425-1062

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March 24, 2004

Dear Sirs,

This is a letter of appeal for our funding commitment letter. Dated March 16, 04 Funding year 6, BEN# 151831 471 # 347563. Congregation Beth Mikroh.

The FCDL states as follows: Bidding Violation Documentation provided demonstrates that price was not the primary factor in selecting this service providers proposal.

I am enclosing copies of responses to selective review teams concerning our process of vendor selection. From the enclosed documentation, I believe it is quite evident that price was the single most important factor in determining our choice of service provider. My responses should be understood as follows.

- 1) Price is the primary concern in our selection process.
- 2) When price structure is similar we give preference to the provider who can insure best continuity of service, knowledgeable customer service, technical assistance, reliability, rapid repair service, experience and ability to deal with emergency situations.
- 3) In fact the plan we established with Verizon at the beginning of year 6 reduced our yearly expense by \$1,200 minimum besides the savings of about \$1,500 in having bundled long distance. This is the major factor why we chose Verizon as our Provider.
- 4) Any inference that the cost is not the primary factor in our decision, is clearly mistaken.
- 5) As further assurance of our commitment to price preference, after doing much research into providers we will be using X-Change as our new provider for year 7.
- 6) The safety and welfare of our students requires us to view this vendor selection with great gravity. Our mention of the other factors that helped determine our selection should be viewed in light of that responsibility and should not be misconstrued as stating that we do not consider price to be the primary consideration.

I appreciate your kind consideration of this appeal as this service is so vital to every aspect of every school and we hope we are deserving of your affirmative review.

Sincerely Yours,

*Rabbi Yaakov M. Horowitz*

Rabbi Yaakov M. Horowitz

Administrator  
221 Viola Rd. Monsey, NY 10952  
845-425-4880 ext 103  
845-425-1062 fax

PS Our school is on holiday leave from April 1-April 15

# FUNDING COMMITMENT REPORT

Form 471 Application Number: 347563  
Funding Request Number: 972542 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143001359 Service Provider Name: Verizon - New York Inc.  
Contract Number: T  
Billing Account Number: N/A  
Earliest Possible Effective Date of Discount: 07/01/2003  
Contract Expiration Date: 06/30/2004  
Site Identifier: 151831  
Annual Pre-discount Amount for Eligible Recurring Charges: \$10,200.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$10,200.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Bidding Violation  
Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.  
Funding Request Number: 972552

12/3/03

11:09 AM

To: 1-845-425-1062

NECA19

Page: 001-004



Universal Service Administrative Company  
Schools & Libraries Division

80 South Jefferson Road  
Whippany, New Jersey 07981  
Fax: 973-599-6515

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**FAX TRANSMISSION COVER SHEET**

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To: Rabbi Yaakov Horowitz  
Fax: 1-845-425-1062  
Subject: E-rate selective review CASE SR-2003-151831  
From: Selective Review  
Date: December 03, 2003  
Time: 11:09:33 AM

YOU SHOULD RECEIVE 4 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT  
RECEIVE ALL THE PAGES, PLEASE CALL THE CONTACT SPECIFIED BELOW.

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please see attached.

Thank you,

Laura Viteri (Ransegnola)  
Selective Reviewer  
phone (973) 581-6742  
fax (973) 599-6515  
email LVITERI@sl.universalservice.org

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**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal - Funding Year 2003-2004**

June 18, 2004

Rabbi Yaakov M. Horowitz  
Congregation Beth Mikroh  
221 Viola Road  
P.O. Box 456  
Monsey, NY 10952

Re:      Billed Entity Number:      151831  
         471 Application Number:      347563  
         Funding Request Number(s):      972542  
         Your Correspondence Dated:      March 24, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number:      972542  
Decision on Appeal:      **Denied in full**  
Explanation:

- On appeal, you affirm upfront that it was evident in the response to the selective review that price was the single most important factor in determining your choice of service provider. In support of your argument, you provided on appeal copies of the responses sent to SLD. In closing the appeal, you seek reconsideration of the decision, as the service is vital to the school.
- During the course of PIA review Congregation Beth Mikroh was contacted and was asked to provide documentation explaining the vendor selection process. The SLD thoroughly reviewed the documentation and determined that; based on the response provided, it was clear that price was not the primary factor in the vendor selection process. In your response dated December 10, 2003, you stated..."In summary, cost was 40% and reliability was 60% in our decision to stay with Verizon". The documentation provided on appeal is in direct contradiction with the response provided during the selective review process. Since price was not the primary factor

in the evaluation criteria in the vendor selection process, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism.

- After thorough review of the assertions made in your appeal, it has been determined that the decision to deny this request was correct based on the documentation provided during the course of review. SLD's review of your application determined that price was not the primary factor when you selected your service provider. Program rules do not permit SLD to accept new information on appeal except where an applicant was not given an opportunity to provide information during the initial review or when an error was made by SLD. You did not demonstrate in your appeal that price was the primary factor when you selected your service provider. Consequently, your appeal is denied in full.
- FCC regulations require that the entity selecting a service provider "carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers."<sup>1</sup> In regard to these competitive bidding requirements, the FCC mandated that "price should be the primary factor in selecting a bid."<sup>2</sup> When allowed under state and local procurement rules, other relevant factors an applicant may consider include "prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives."<sup>3</sup> As stated by the FCC in the Tennessee Order, other factors, such as prior experience, personnel qualifications, including technical excellence, and management capability, including schedule compliance, form a reasonable basis to evaluate whether an offering is cost-effective.<sup>4</sup> Recently, the Commission reaffirmed its position that schools must select the most cost-effective service offering and in making this decision, price should be the primary factor considered. See 47 C.F.R. § 54.511(a).

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

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<sup>1</sup> 47 C.F.R. § 54.511(a).

<sup>2</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order*, 12 FCC Rcd 8776 at ¶ 481 (1997) ("*Universal Service Order*").

<sup>3</sup> *Id.*

<sup>4</sup> Request for review by the Department of Education of the State of Tennessee, Federal-State Joint Board on Universal Service, changes to the Board of Directors of National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, *Order*, 14 FCC Rcd. 13,734 (1999).

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company



Dear Ms. Vitori

Please accept this request to withdraw the following FRNs . 95411 for LAN maintenance, 954116 for LAN upgrade, 554120 for domain name server . In considering our needs for the funding year seven we are evaluating how our new remedial language scan read program might alter our network requirements. We feel it is in our best interests to withdraw these frns and resubmit for bid alternate specs for year 7 .We are using our present provider on a limited per call basis .

FRN 954114 Inter-Tel phone system maintenance and upgrade

We did not receive any bids on this item . Our reason for selecting this provider is very basic. Our current provider who installed this system and customized its software , features and systems, provides the kind of support that a new provider would not be able or would not be eager to handle . Its technicians are specially trained and certified to service our specific equipment . Takeover by another provider would entail extra unwarranted expenses due to .We benefit from local, prompt and efficient service "beyond the call ".

90%

FRN 972542 Verizon Basic Service We received one offer from Greenlight Communications .We chose not to move away from Verizon because of the danger of a school losing its phone service for extended periods of time . Verizon , in all events will be able to provide customer service and technical service much more quickly than any service purchasing time from them . Moreover shortly after the beginning of Year 6 we signed on to Verizon's business one rate plan which greatly reduces our monthly charges and eliminates all national long distance costs. This package comes out cheaper than Greenlight . In summery , cost wasa 40% and reliability 60% in our decision to stay with verizon.

90%

FRN 972 553 Access Point We received no bids for long distance unbundled with basic service. We were happy with their price structure ,being basically similar to all discounted long distance providers . In the July August period we switched over to verizon business one rate and currently are using this provider very minimally . In the near future we will not be using them at all..

FRN 972560,972573 Verizon Wireless

We received no direct offers or bids for wireless services . Admittedly the market is quite competitive in price and features . We found ourselves in a bind because any provider offering cheaper service has so many dead spots in our area ,making it difficult to do just what a cell phone is made to do. This was our sole and primary criteria for this choice.

100 %

FRN 972584, 972602 Pager Service We received no bids for this FRN We used this provider because of the features and fair price . We will not be using new pager service this year . frn 972602 .

FRN 972609 AOL Dial Up Internet Service No bids were received for such service . Providers offered T1 etc which were beyond our needs. AOL besides offering a competitive price was preferred due to its user friendly interface and many features which are most beneficial to our staff and teachers..

100 %

FRN 972648 Cablevision Optonline High Speed Cable Internet service.

Currently we benefit from a one station sampler package gratis which we would like to expand to several other stations. There is no other cable provider and no other provider can match the cost of their service . Price is the major factor in chosing their services .

100%

